

REFERRING TO THE TREASURY DEPARTMENT CLAIMS OF
SUNDRY PERSONS FOR EXAMINATION, ETC.

APRIL 26, 1898.—Committed to the Committee of the Whole House on the state of
the Union and ordered to be printed.

Mr. OTJEN, from the Committee on War Claims, submitted the following

REPORT.

[To accompany S. 442.]

The Committee on War Claims, to whom was referred the bill (S. 442) referring to the Treasury Department the claims of sundry persons for examination, adjustment, and report to Congress, submit the following report:

The report of Mr. Stewart, made to the Senate at the first session Fifty-fourth Congress, is so full and conclusive that your committee have adopted it as a fair statement of the grounds for relief.

Your committee recommend the passage of the bill.

[Senate Report No. 144, Fifty-fourth Congress, first session.]

The Committee on Claims, to whom was referred the bill (S. 5) referring to the Treasury Department the claims of sundry persons for examination, adjustment, and report to Congress, have considered the same, and report as follows:

A bill relating to this subject has been favorably reported by your committee in the past four Congresses, and at each time passed the Senate. It has also been favorably reported in the House of Representatives, but failed of action. A thorough report upon the subject was made at the second session of the Fifty-third Congress, which report your committee adopts as a part of this report, and recommends the passage of the bill.

The report referred to is as follows:

[Senate Report No. 232, Fifty-third Congress, second session.]

The Committee on Claims, to whom was referred the bill (S. 100) to reimburse certain persons who expended moneys and furnished services and supplies in repelling invasions and suppressing Indian hostilities within the Territorial limits of the present State of Nevada, having had the same under consideration, submit the following report:

A bill for the payment of a large portion of these claims passed the Senate in the Fiftieth, Fifty-first, and Fifty-second Congresses, and was reported favorably to the House of Representatives in the same Congresses.

The nature and character of the claims are set forth in the report of the Senate Committee on Claims of the Fiftieth Congress, which is as follows:

Senate Report No 952, Fiftieth Congress, first session.

APRIL 16, 1888.—Ordered to be printed.

Mr. STEWART, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 2542.]

The Committee on Claims, to whom was referred the bill (S. 2542) to reimburse certain persons who expended moneys and furnished services and supplies in repelling invasions and suppressing Indian hostilities within the Territorial limits of the present State of Nevada, submit the following report:

The claims to be paid under the provisions of this bill are fifty-three in number, and aggregate in amount to \$29,144. The persons named in the bill furnished money, supplies, and services in the Indian war in 1860 in what was then western Utah, now Nevada.

The Comstock lode was discovered in 1859. During the winter of 1859-'60 a large number of miners crossed the Sierra Nevada Mountains from California, attracted by the new mineral discoveries. The country previous to that time was very sparsely settled by farmers and stock-raisers. The Pah-Ute (or Piute) Indians, who occupied this region, were numerous and warlike. In the latter part of April, 1860, these Indians commenced hostilities against the whites by an attack on a neighborhood of settlers and stockmen residing on the Carson River, about 30 miles east of Virginia City, Nev. They killed several persons and drove off a large amount of stock.

Previous to the outbreak threats had been made by the Indians to massacre all the whites on the east side of the Sierra Nevada Mountains. At the time of the outbreak the snow on the mountains was very deep, averaging from 10 to 20 feet, and at that season of the year was soft and impassable for teams. To protect the inhabitants and repel these Indians a company was organized in Carson City, consisting of 125 men, under the command of Maj. William Ormsby. They were joined by a small company from the neighboring town of Genoa, and another from Virginia City. They proceeded to the place of the massacre, known as Williams' Ranch, and from there pursued the Indians to Truckee River, near Pyramid Lake, where a battle ensued, in which about sixty of the whites were killed, among whom were Major Ormsby, Henry Meredith, the law-partner of the writer of this report, and other prominent citizens. Others were wounded, and those that escaped with their lives returned to the settlements destitute of horses, and in a pitiable condition.

Immediately after this event home guards were formed and a regular force of volunteers were enrolled and placed under the command of Col. John C. Hays. These volunteers were composed of soldiers, who enlisted

in Nevada and several volunteer companies who crossed the mountains from California. A small company of United States soldiers, under command of Captain Stewart, of the regular Army, also crossed the mountains and co-operated with the forces under Colonel Hays. The combined force consisted of several hundred men, who were supplied with horses, provisions, etc., by the inhabitants of Nevada, assisted by contributions from California. This force moved against the Indians, but the Indians refused to give regular battle against so formidable an army; but after considerable irregular fighting and skirmishing for several days, in which a number of white men and a few Indians were killed, the Indians sued for peace, which was granted and has ever since been observed. The whites have had no trouble with these particular Indians since that time, but they have lived in peace together.

During the second expedition above mentioned Captain Storey, a gentleman of great courage and popularity, was killed, and the county of Storey, in which Virginia City is situated, was given his name to commemorate his services, and the county of Ormsby, in which Carson City, the capital of the State, is located, was named after Major Ormsby.

A large amount of money and supplies were necessary for these expeditions. All the horses and mules in the country were freely surrendered for the use of the soldiers, and every citizen contributed money, food, or clothing to the extent of their means, or whatever else would be serviceable to the forces in the field. Contributions were also liberally made from California.

On December 19, 1862, the legislative assembly of Nevada Territory passed the following memorial to Congress in relation to depredations committed by Indians in the Territory, and expenses incurred in the protection of settlements:

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

Your memorialists, the governor and legislative assembly of the Territory of Nevada, respectfully represent that during the winter and spring of 1860 the Indians inhabiting what was at that time the western portion of Utah Territory, now organized as Nevada Territory, became hostile towards the white settlers, and that in consequence of the massacres being committed it became necessary, in order to save the settlements from annihilation, to employ not only the few United States troops within reach, but to call for aid from the neighboring State of California, and to accept the services of considerable numbers of volunteers from that State, who generously came to the rescue; that this occurred at a time when the transportation of forage and provisions over the snows of the Sierra Nevadas was almost impossible. Supplies for the necessities of volunteers and others became exceedingly scarce, and rose to extraordinary prices. Persons who had transported provisions at a great toil and expense ministered most generously to the wants of the troops; and others, under that "necessity which knows no law," submitted to forced contributions. Many horses and other animals were taken for the use of the expedition, for which no recompense has ever been made. Much of these supplies were accredited at the time, or soon after, by certificates from the officers of the expedition, or other evidences of indebtedness, the most regular and authentic that could be made under the circumstances existing at the time, but we believe as yet no provision has been made for the payment thereof, and the losses thus incurred fall with crushing weight on many worthy individuals, who were deprived of almost their entire substance. We would further represent that numerous depredations were committed by the savages on the stock and other property of the settlers, in some instances almost entire herds being driven off. We know of no legal means of liquidating this indebtedness by our Territorial government, or indemnifying parties for losses thus sustained, and we would most earnestly petition your honorable body to appoint commissioners to examine claims and adjust the same.

On March 10, 1868, the writer of this report presented a report of a commission appointed by the State of Nevada to examine certain claims for Indian depredations, which was referred to the Committee on Claims

of the Senate, but no action was taken thereon, and papers accompanying the report were lost or mislaid—at all events they can not now be found. On May 29, 1868, the writer of this introduced a joint resolution (S. 138) to appoint a board of examiners for claims against the United States in the State of Nevada, which was also referred to the Committee on Claims, and on June 18 of the same year an order was made, at the request of one of the members of the committee, discharging it from further consideration of the resolution.

On December 13, 1883, first session Forty-eighth Congress, the following bill was introduced for the payment of the claims now under consideration, and referred to the Committee on Military Affairs:

[S. 657, Forty-eighth Congress, first session.]

A bill to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to adjust and settle, on just and equitable principles, all claims for services rendered or supplies furnished in any of the Indian wars in the Territory or in the State of Nevada by the people thereof, not heretofore provided for by law, including subsistence, forage, medical stores, clothing, transportation, and services of and losses of horses used therein, as well as for any other necessary and proper supplies furnished and expenditures made for the prosecution of said wars; and that on such adjustment the same shall be paid out of any money in the Treasury not otherwise appropriated.

It appears that the foregoing bill was referred by the committee to the Secretary of War, upon which he made a report stating that all the claims provided for in the bill could be adjusted and paid under existing laws, whereupon the Committee on Military Affairs made the following report:

[Senate Report No. 406, Forty-eighth Congress, first session.]

The Committee on Military Affairs, to which was referred the bill (S. 657) to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada, respectfully submits the following report:

Attention is directed to the letter of the Secretary of War, dated January 26, 1884, as follows:

WAR DEPARTMENT,
Washington City, January 26, 1884.

SIR: In response to so much of your communication of the 22d ultimo as requests information concerning Senate bill 657, "to authorize the Secretary of the Treasury to adjust and settle the expenses of Indian wars in Nevada," I have the honor to invite your attention to the following report of the Third Auditor of the Treasury, to whom your request was duly referred:

"The State of Nevada has filed in the office abstracts and vouchers for expenses incurred on account of raising volunteers for the United States to aid in suppressing the late rebellion amounting to \$349,697.49, and for expenses on account of her militia in the 'White Pine Indian war' of 1875, \$17,650.98. Also, expenses of her militia in the 'Elks Indian war' of 1878, amounting to \$4,654.64, presented under act of Congress approved June 27, 1882 (22 Statutes 111, 112).

"These abstracts and vouchers will be sent to your Department for examination and report as soon as they can be stamped, as that statute requires a report from the Secretary of War as to the necessity and reasonableness of the expenses incurred. This statute is deemed sufficiently broad enough to embrace all proper claims of said State and Territory of Nevada.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

Hon. S. B. MAXEY,
Of Committee on Military Affairs, United States Senate.

The copy of Senate bill No. 657 is herewith returned, as requested by you.

It will be observed that it is deemed by the Department that the act approved June 27, 1882, is sufficiently broad to embrace all proper claims of Nevada, whether a State or Territory.

For convenience of reference the above act accompanies this report, and an examination thereof and of the construction thereon, satisfies the committee that no additional legislation is necessary.

Wherefore, for this reason, the committee reports back said Senate bill 657, and recommend that it be indefinitely postponed.

The committee evidently understood that the Secretary of War regarded the existing law sufficient for the payment of the claims in question, and that it was as comprehensive as the bill which was introduced by Senator Jones and referred to the Secretary of War, which contained provisions amply sufficient to pay for services rendered, supplies furnished, and everything which was done to aid in prosecuting the Indian war of 1860. This construction of existing laws was accepted by the legislature of the State of Nevada as an assurance that the Indian war claims of the State and Territory, and the people thereof, when ascertained and established, would be paid. The legislature of Nevada at its next session passed the following act:

AN ACT relative to the proving of Indian war claims (approved February 27, 1885.)

The people of the State of Nevada, represented in senate and assembly, do enact as follows: SECTION 1. The State board of examiners are hereby authorized and directed to examine into all claims for services rendered, moneys expended, indebtedness incurred, and supplies and necessities furnished between the first day of January, anno Domini one thousand eight hundred and sixty, and the date of the approval of this act, in repelling invasions and suppressing Indian outbreaks and hostilities within the territorial limits of the present State of Nevada. Said board shall also examine into all claims for horses, equipments, and wagons actually lost by those engaged as aforesaid, while in the line of duty in active service.

SEC. 2. That immediately after the approval of this act the board shall give notice, by publication in some daily newspaper published at the State capital, to all persons having such claims to present them by petition, showing the items and amounts thereof to the board within sixty days from the first publication of the notice, which notice shall be published in each issue of such newspaper for a period of at least thirty days: *Provided*, That if no daily newspaper be published at the State capital, then the notice may be published in such other daily newspaper as shall be designated by the board. Any and all claims presented in accordance with the requirements of said notice shall be examined, and final action thereon taken by the board, as soon as practicable thereafter.

SEC. 3. That all persons having such claims shall be permitted to appear personally before the board and produce such evidence as they may have in support of their respective demands; and all the provisions of sections eight, nine, ten, eleven, and twelve of an act entitled "An act relating to the board of examiners, to define their duties and powers, and to impose certain duties upon the controller and treasurer," approved February seventh, one thousand eight hundred and sixty-five, are hereby made applicable to the examination of claims presented under this act.

SEC. 4. That the evidence presented to the board in support of any such claim shall be reduced to writing, and immediately after the approval or disapproval of the claim, the petition and evidence shall be filed in the office of the governor of the State. If the claim be entirely disapproved the board shall indorse their disapproval upon the petition, and such claim shall not be reconsidered, unless upon presentation by the claimant, within thirty days thereafter, of new and material testimony in its support. If the claim be approved, either in whole or in part, the board shall indorse such approval upon the petition, which indorsement shall show the items and amounts for which the claim is approved, and a certificate of like tenor and effect shall also be given to the claimant whose claim shall have been so approved.

SEC. 5. That as soon as all the claims presented under the provisions of this act shall have been finally acted upon by the board, it shall be the duty of the governor to transmit the claims that have been approved for any amount, together with the evidence in support of them, to the Secretary of the Treasury of the United States, or other proper officer, and to urge the payment thereof by the United States Government at the earliest practicable day.

SEC. 6. Nothing herein contained shall be so construed as to make the State of Nevada liable for the amount of any approved claim, or any amount of money whatever, except as the same may be received from the Treasury of the United States for the payment of such claims, and then only for the particular claims allowed by the United States Government, and to the extent of such allowance (Stats. Nev. 1885, p. 47).

Under this act many of the claims for the Piute Indian war of 1860 were presented and laboriously and carefully examined by the board of examiners of the State of Nevada. This board of examiners is a permanent board which passes upon all claims against the State of Nevada before the same can be paid, and was not a special board organized for the purpose of examining these claims. It is composed of the governor, secretary of state, and attorney-general, and has served a most beneficial purpose in protecting the treasury of the State from the payment of unjust demands. A notice was published, as provided in the act abovequoted, and all claims presented within the time provided in the notice were examined; and only such claims were allowed as were established by evidence. Many claims were rejected altogether, and most of the claims presented were reduced in amount. All the allowances made and provided for in the bill under consideration are established by the evidence reported by the board and referred to your committee. The investigation made by the board was much more careful and accurate than a committee of Congress could make on the *ex-parte* evidence usually presented for the adjustment of claims of this character. The committee, however, have not relied on the findings of the board, but have examined the evidence in each case upon which the findings were made, and have arrived at the same conclusions which the board of examiners reached in its investigation, with the exceptions herein-after stated.

The following is a synopsis of the result of the examination made by the board, taken from the biennial report of the secretary of state of Nevada for 1885-'86:

INDIAN WAR CLAIMS.

At the last session of the legislature an act was passed directing the board of examiners to inquire into and pass upon all claims for services rendered, moneys expended, indebtedness incurred, and necessities furnished between January 1, 1860, and February 27, 1885, in repelling invasions and suppressing Indian outbreaks and hostilities within the territorial limits of the present State of Nevada. By virtue of this act the board of examiners devoted much time and care to the taking of testimony and to the faithful performance of the arduous duties imposed upon them by the legislature in this connection. It required several months of industrious application on the part of the board, involving a mass of correspondence that reached to nearly every portion of the United States. The amounts allowed the several claimants are given below:

Claimant.	Principal.	Interest.	Total.
Mrs. Kate Miot	\$150. 00	\$225. 00	\$375. 00
Mrs. Ellen E. Adams	740. 00	1, 110. 00	1, 850. 00
William H. Naleigh	385. 00	577. 50	962. 50
John T. Little	219. 00	328. 50	547. 50
A. G. Turner	979. 00	1, 468. 50	2, 447. 50
Oscar C. Steele	326. 00	489. 00	815. 00
Estate of Samuel Turner	307. 00	460. 50	767. 50
J. H. Mathewson	350. 00	525. 00	875. 00
Charles Shad	327. 00	490. 50	817. 50
Theodore Winters	1, 549. 00	2, 323. 50	3, 872. 50
J. F. Holiday	95. 00	142. 50	237. 50
Franklin Bricker	152. 00	228. 00	380. 00
George Seitz	120. 00	180. 00	300. 00
B. F. Small	110. 00	165. 00	275. 00
Purd Henry	157. 00	258. 00	430. 00
Andrew Lawson	266. 00	399. 00	665. 00
Louis B. Epstein	269. 00	403. 50	672. 50
John Q. A. Moore	580. 00	225. 00	805. 00
Lucy Ann Hetrick	405. 00	607. 50	1, 012. 50
Charles C. Brooks	152. 00	228. 00	380. 00
Lizzie J. Donnell, heir of Major Ormsby	1, 825. 00	2, 737. 50	4, 562. 50
J. M. Gatewood	894. 00	1, 341. 00	2, 235. 00
J. M. Gatewood, supplemental claim	150. 00	225. 00	375. 00
Seymour Pixley	305. 00	457. 50	762. 50

Claimant.	Principal.	Interest.	Total.
J. D. Roberts	3, 231. 00	4, 846. 50	8, 077. 50
H. P. Phillips	269. 00	403. 50	672. 50
J. M. Horton	95. 00	132. 50	227. 50
George Hickox Cady	168. 00	252. 00	420. 00
James H. Sturtevant	513. 00	769. 50	1, 282. 50
Gould and Curry Mining Company	1, 000. 00	1, 500. 00	2, 500. 00
John H. Tilton	519. 00	778. 50	1, 297. 50
E. G. Watkins	290. 00	435. 00	725. 00
Estate of J. L. Blackburn	763. 00	1, 144. 50	1, 907. 50
John O. Earl	750. 00	1, 125. 00	1, 875. 00
L. M. Pearlman	3, 130. 00	5, 445. 00	8, 575. 00
Robert Lyon	1, 694. 00	2, 541. 00	4, 235. 00
Thomas Marsh	150. 00	225. 00	375. 00
Abraham Jones	310. 00	465. 00	775. 00
A. McDonald	750. 00	1, 125. 00	1, 875. 00
G. H. Berry	130. 00	195. 00	325. 00
Robert M. Baker	171. 00	256. 50	427. 50
P. S. Corbett	95. 00	132. 50	227. 50
John S. Child	505. 00	757. 50	1, 262. 50
Benjamin F. Green	225. 00	337. 50	562. 50
Alex. Crow	95. 00	132. 50	227. 50
Mary Curry, widow of Abe Curry	500. 00	750. 00	1, 250. 00
Warren Wasson	499. 00	748. 50	1, 247. 50
Michael Tierney	145. 00	217. 50	362. 50
Samuel T. Curtis	590. 00	885. 00	1, 475. 00
J. Harvey Cole	202. 00	303. 00	505. 00
Isaac P. Lebo	334. 00	508. 00	835. 00
E. Penrod	664. 00	996. 00	1, 660. 00
J. B. Preusch	95. 00	132. 50	227. 50
Wellington Stewart	400. 00	600. 00	1, 000. 00

The action of the board of examiners upon each claim in the foregoing list, together with the evidence upon which it was based, was transmitted to the Secretary of the Treasury, in accordance with the act of the State of Nevada above quoted, accompanied with the following letter:

EXECUTIVE DEPARTMENT, GOVERNOR'S OFFICE,
Carson City, Nev., February 13, 1886.

SIR: In compliance with the provisions of section 5 of an act of the legislature of this State, entitled "An act relative to the proving of Indian war claims," approved February 27, 1885, I have the honor to transmit herewith the claim of _____ for the sum of \$_____, and respectfully urge the payment thereof at the earliest practicable day.

I have the honor to remain, your obedient servant,

CHAS. E. LAUGHTON,
Lieutenant and Acting Governor.

Hon. DANIEL MANNING,
Secretary of the Treasury, Washington, D. C.

On receipt of the papers in these cases by the Secretary of the Treasury they were duly referred to the Third Auditor of the Treasury for report, who, on March 2, 1886, replied as follows:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., March 2, 1886.

SIR: I have the honor to return claims of Ellen E. Adams and fifty-four others, being those which were transmitted to you by the letter of the acting governor of Nevada, dated February 13, 1886.

An act of the legislature of Nevada, approved February 27, 1885, provided that certain claims might be presented to the State board of examiners, consisting of governor, secretary of state, and attorney-general; and that the governor should transmit to the Secretary of the Treasury of the United States, or other proper officer, such of the claims as should be approved in any sum by said board, and urge their payment by the United States.

The claim of Mary M. Stiles (formerly McDowell), will be specially mentioned below.

The claims of the fifty-four others are for compensation for military service in, or supplies, etc., furnished to militia of the State engaged in suppressing Indian hostilities in 1860. I do not find that provision has been made by any law of the United States for the adjudication of such claims. For two reasons at least they do not come within the provisions of the act of Congress of June 27, 1882 (18 Stat., 111):

First. The act was confined to expenses, etc., in organizing, etc., forces called into active service by the authorities of a State or Territory between April 15, 1861, and June 27, 1882, whereas all these claims are alleged to have occurred in 1860.

Second. The act did not authorize the adjudication of any claims of individuals, but only claims of States or Territories, and only for expenses incurred or *indebtedness assumed* by the States or Territories. Nevada has *not* assumed to pay any part of the indebtedness alleged in the fifty-four claims, on the contrary the sixth section of the State act above referred to is in these words: "Nothing herein contained shall be construed as to make the State of Nevada liable for the amount of any approved claim, or any amount of money whatever, except as the same may be received from the Treasury of the United States for the payment of such claims allowed by the United States Government, and to the extent of such allowance."

The board did not consider the claim of Mary M. Stiles (formerly McDowell), holding that it was not of the class of claims which the State act of February 27, 1885, authorized it to pass upon; but, by oversight, probably, it has been forwarded to you with the others. Her claim is for boarding and lodging officers and soldiers of the United States at her hotel April 1, 1863, to about May 1, 1864, \$3,450. In its present form it is not entitled to any adjudication, there being no attempt to set out any account, and the amount demanded being the product of mere guess-work. The United States is not liable for hotel bills of its officers; and if she furnished board or lodging to United States soldiers under any proper authority she could readily have collected at the time all which was due her. The presumption is that she would not have deferred a demand for twenty-two years.

I recommend that the papers in her case be transmitted to the Secretary of War, with suggestion that they be placed on file, for use in the event of the presentation of a claim by her.

I recommend that the fifty-four other claims be returned to the governor of Nevada, this Department having no authority to entertain them.

Very respectfully

JNO. S. WILLIAMS,
Auditor.

Hon. DANIEL MANNING,
Secretary of the Treasury.

On the receipt of the foregoing report from Third Auditor, the Secretary of the Treasury returned all the papers to the governor of Nevada, with the following letter:

TREASURY DEPARTMENT,
March 5, 1886.

The honorable GOVERNOR OF NEVADA:

SIR: I have the honor to acknowledge the receipt of your communication of the 13th ultimo, transmitting to this Department, in compliance with an act of the legislature of Nevada, February 27, 1885, fifty-five claims for compensation for military service in, or supplies, etc., furnished to militia of the State engaged in suppressing Indian hostilities in 1860, with the exception of the claim of Mary M. Stiles (formerly McDowell), which is for boarding and lodging officers and soldiers of the United States in 1863 and 1864.

In reply thereto, I have to state that no provision has been made by Congress for the adjudication of these claims. They do not come within the terms of the act of June 27, 1882 (22 Stat., 111), being "An act to authorize the Secretary of the Treasury to examine and report to Congress the amount of all claims of the States of * * * and Nevada * * * for money expended and indebtedness assumed by said State * * * in repelling invasions and suppressing Indian hostilities, and for other purposes," and are returned herewith as a class of claims which can not be entertained without legislation by Congress.

A copy of the Third Auditor's report in the matter is inclosed for your information, and the papers of the case of Mrs. Stiles have been forwarded to the Secretary of War, as recommended by the Auditor.

Respectfully, yours,

D. MANNING,
Secretary.

It will be observed by the foregoing that the Treasury Department differed from the conclusions of the Committee on Military Affairs (which were based on the letter of the War Department), in holding that the claims could not be paid without further legislation by Congress.

More than one-half of the allowances made by the board of examiners of Nevada was for interest. This your committee disallow. There are several items allowed by the board for services during the first expedition under Major Ormsby before the arrival of the United States troops. These items your committee have also rejected, and confined the allowances for services in the expedition in which the volunteer troops under Colonel Hays acted in conjunction with the United States forces under Captain Stewart.

There is no question about the justice of the claims allowed by your committee. It is true many years have elapsed since these claims arose, but the claimants can hardly be charged with negligence, having prepared their claims within a reasonable time and presented them to Congress, with the evidence upon which they are based. The claims are all small, averaging a little over \$500 each, and the claimants are generally poor and unable to come to Washington to prosecute their individual claims. The amount involved is probably less than one-tenth of the money, supplies, and services contributed by citizens during the Pi-Ute war.

Congress has already recognized the obligation of the United States to pay these claims. On June 17, 1874, an act was passed directing the Secretary of the Treasury to pay the sum of \$19,473.50 to John M. McPike, in full settlement for beef and supplies furnished the troops by Wallace, Dorsey & McPike in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in 1860. (See U. S. Stat., p. 40 of private acts, chap. 296.)

On March 3, 1885, an act was passed directing the payment to John M. Dorsey of \$9,021.33, and to William F. Shepard \$3,746.66, in full settlement for beef and supplies furnished the troops by Wallace, Dorsey & Shepard, and S. B. Wallace, in quelling the Indian disturbances in the Territory of Utah, now the State of Nevada, in the year 1860. (See U. S. Stats., vol. 23, p. 674.)

These claims were sufficiently large to enable the claimants to prosecute them in Washington, but they were no more meritorious than the small individual claims provided for in the bill under consideration, which arose out of the same war and under the same circumstances as the claims already paid by Congress. Several reports were made in both Houses upon the claims of Dorsey & Shephard and Jordan & McPike. The first of these reports was made by Mr. Willey from the Senate Committee on Claims during the third session of the Forty-first Congress, from which we make the following extracts:

In the spring of 1860 great alarm was excited among the inhabitants of Virginia City and its vicinity, then in Utah Territory, by the depredations of the Pi-Ute Indians. An irregular force of about one hundred persons, consisting of many of the best citizens, was organized, armed with such weapons as they could procure, and went out from Virginia City to chastise the Indians. The expedition was unfortunate, falling into ambush, where some sixty of said citizens were killed by the Indians and the others dispersed. This greatly increased the alarm, and there was good reason to fear that the settlements around Virginia City, if not the town itself, would be attacked by the Indians in large force. There were no troops or arms of Government nearer than Salt Lake, five or six hundred miles distant. Under these circumstances the governor of California and the United States officer in command of the Department of the Pacific sent forward to Virginia City arms and ammunition, in charge of proper officers. Two or three hundred volunteers also came along with the United States troops. The citizens of Virginia City and vicinity, together with the

United States troops and volunteers from California, organized a regiment and selected Col. Jack Hays, who happened to be there at the time, to take command thereof. Thus organized and thus commanded, this improvised regiment marched against the Indians, and, after a hard-fought battle, whipped them severely and secured peace and safety. * * *

The evidence shows that this expedition against the Indians was necessary for the preservation of the lives and property of the people of Virginia City and vicinity, and that its organization and success perhaps preserved the people there from destruction. The Government had no troops there; the danger was instant; there were no means of preventing destruction excepting those adopted. The people themselves did what the Government should, perhaps, have been prepared to do. Under these circumstances the committee think there is a moral and equitable obligation resting on the Government to pay the necessary expenses of the expedition.

The prices charged for the supplies seem to be high, but the testimony is all to the effect that, under the adverse circumstances of the case, they could not have been furnished for less. * * *

STATEMENT OF WILLIAM M. STEWART.

UNITED STATES SENATE, *April 14, 1888.*

William M. Stewart states that he was in Virginia City during the war of 1860; that he aided in fitting out both expeditions against the Indians and contributed for that purpose \$1,000, for which he never has and never will present a claim; that many citizens of both California and Nevada contributed considerable sums of money who will never make claims for the same; that he knows most of the persons for whose relief this bill is presented, and knew them at the time of the war; that he is unable to state what amount any particular individual contributed, but does know that nearly every person in the Territory of Nevada contributed freely to the full extent of their means, and that from his general knowledge of the subject he believes the claims presented are just and reasonable.

WM. M. STEWART,
Nevada.

Congress has in numerous instances paid claims of the same character of those provided in the bill under consideration, among which the following are cited as precedents:

By act approved March 3, 1797, entitled "An act making appropriations for the military and naval establishments for the year 1797," appropriations were made, to satisfy and discharge claims for militia service on the frontiers of Georgia, the sum of \$70,496.35; for militia service on the frontiers of Kentucky, \$3,836.76; and for militia service on the frontiers of South Carolina, the sum of \$3,400.25.

By an act approved May 13, 1800, the accounting officers of the Treasury were authorized to settle the accounts of the militia who served on an expedition commanded by Maj. Thomas Johnson against the Indians in the year 1794, the same to be paid out of any moneys in the Treasury not otherwise appropriated.

By section 3 of an act of Congress approved March 14, 1804, making appropriations for the support of Government for the year 1804, it was provided "that the sum which shall be found due on a settlement of the accounts of the militia who served on an expedition commanded by Maj. Thomas Johnson against the Indians in the year 1794, be paid out of any moneys in the Treasury not otherwise appropriated, the appropriation made by the act of the 13th of May, 1800, having been carried to the credit of the surplus fund."

By the second section of an act approved March 2, 1829 (Army appropriation bill), an appropriation was made of \$856.55 to pay a company of Illinois militia commanded by Captain Morgan, called into service on the northwestern frontier in 1827, to be settled by the Secretary of War agreeably to the third section of the Army appropriation bill, approved March 21, 1828.

By an act approved July 2, 1836, the Secretary of War was directed to ascertain the sums severally due to persons who performed duty in the companies commanded by Captains Crawford, Wallis, and Long, of the militia of Missouri, and in the companies of Captain Siglor, of the militia of Indiana, for the protection of the frontiers of those States against the Indians, and to cause them to be paid for the time they were actually engaged in said service in the year 1832, at the rate and according to the principles established for the payment of similar services rendered the United States.

By the third section of an act approved March 1, 1837, the Secretary of War was directed to cause to be paid to the volunteers and militia of Kentucky, Tennessee, Alabama, and Mississippi, including the companies in Mississippi mustered into the serv-

ice, who were duly called into service, and whose service was accepted by the executives of the States, respectively, during the summer of the year 1836, under requisitions from the Secretary of War, or from generals commanding the troops of the United States, and who were discharged before marching, the amount of one month's pay, with all the allowances to which they would have been entitled if they had been in actual service during the period of one month; and by the fourth section of said act an appropriation was made for paying the Rifle Rangers, Coosada Volunteers, and Independence Blues, under the command of Major Holt; and for the payment of Major Holt and battalion staff, to be paid on presentation of the rolls of said companies and battalion staff to the Paymaster-General, with evidence of the time they were in the service against the Creek Indians in the months of May and June, 1836.

By an act approved February 4, 1843, the Secretary of War was authorized to cause to be paid to the companies of Captains Johnson, Henderson, Knight, Jones, and North, for services rendered in the year 1840, according to the muster-rolls of said companies, and also the companies of Captains Jernigan and Sweat, for services rendered in the year 1841, according to the muster-rolls of said companies, such payment to be governed by the laws and regulations applicable to the payment of volunteers and militia of the United States.

By act approved March 3, 1843, the accounting officers of the Treasury were authorized and required to settle the claims for supplies furnished the Florida militia, the payment of which was provided for by act of August 23, 1842, upon principles of equity and justice, under the directions of the Secretary of War.

By act approved August 7, 1848, the Secretary of the Treasury was directed to pay to the mounted Tennessee volunteers who served in the companies of Captains Gillespie, Peake, Vernon, and Rogers in 1836, to each the sum of 40 cents per day for the use and risk of his arms, and the sum of 15 cents per day for forage from the 1st of November, 1836, until they were finally discharged.

By act approved March 2, 1855, the Secretary of the Treasury was directed out of the appropriation mentioned in the act to "settle and adjust the expenses of the defense of the people of Oregon from the attacks and hostilities of the Cayuse Indians, in the years of 1847 and 1848, approved February 14, 1851," the sums found due and allowed by Commissioners Wait and Rice and by the governor of Oregon.

By act approved March 3, 1853, supplying deficiencies in the appropriations for the year ending June 30, 1853, the sum of \$10,569.06 was appropriated for Mexican hostilities.

By the same act the sum of \$18,060.49 was appropriated for pay of Louisiana and Texas volunteers.

By an act approved March 3, 1855, making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1856, it was provided that the sum of \$25,000 be appropriated to pay the necessary expenses of six companies of volunteers called into the service of the United States by Brigadier-General Smith, in the State of Texas, to be paid under the direction of the Secretary of War.

By an act making appropriations for the support of the Army for the year ending the 30th of June, 1856, and for other purposes, approved March 3, 1855, an appropriation of \$137,755.38 was made for pay, supplies, and traveling expenses of six companies of Texas volunteers called into the service by the governor of Texas and mustered into the service of the United States.

By act of March 2, 1861, \$400,000 was appropriated for pay of volunteers in Oregon and Washington in suppression of Indian hostilities in 1855-'56.

AN ACT making appropriations for the payment of the awards made by the commissioners appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians." Approved February 16, 1863.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the sum of nine hundred and twenty-eight thousand four hundred and eleven dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of the several amounts awarded by the commission appointed under and by virtue of an act of Congress entitled "An act for the relief of persons for damages sustained by reason of the depredations and injuries by certain bands of Sioux Indians," approved February 16, 1863, to the several persons, firms, estates, and corporations, respectively, to whom such amounts were awarded by said commissioners. * * * (13 Stats. at Large, p. 92.)

By act approved March 3, 1875, making appropriations for sundry civil expenses of the Government for the year ending June 30, 1876, the sum of \$25,000 was reappropriated for the payment of volunteers of Washington and Oregon Territories, who were engaged in the suppression of Indian hostilities therein in the years 1855 and 1856, and for the payment of claims for services, supplies, and transportation incurred in the maintenance of said volunteers, and for horses and other property lost or destroyed in said service, as provided for by the act of Congress approved March 2, 1861.

AN ACT for the relief of citizens of Montana who served with the United States troops in the war with the Nez Perces and for the relief of the heirs of such as were killed in such service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each volunteer who joined the forces of the United States, in the Territory of Montana, during the war with the Nez Perce Indians, shall be paid one dollar per day during the term of such service, from the time that he left his home until he was returned thereto, including all time spent in hospital under treatment by such as received wounds or other injuries in such service.

SEC. 2. That all persons who were wounded or disabled in such service, and the heirs of all who were killed in such service, shall be entitled to all the benefits of the pension laws, in such manner and to the same extent as if they had been duly mustered into the regular or volunteer forces of the United States.

SEC. 3. That all horses and arms lost in such service shall be paid for at their actual value, to be duly ascertained by the commanding officer of the district of Montana: *Provided,* That no payment shall be made for such losses except upon the statement of the commanding officer of the United States troops or such other officer of the regular Army as might be in control of the volunteers at the time of such loss, and such other proofs as may be required by the commanding officer and the United States quartermaster for the district of Montana, to establish the fact that such losses were made in the service of the United States.

Approved, March 3, 1881. (U. S. Stat. at Large, vol. 21, p. 641.)

And by the second section of an act approved January 6, 1883, the Secretary of the Treasury was directed to pay to the State of California and to the citizens thereof, their heirs, representatives, or assigns, the sum of \$4,441.33 for arms, ammunition, supplies, transportation, and services of volunteer forces in suppressing Indian hostilities in said State during the said years of 1872-'73, as the same were specifically reported to Congress by the Secretary of War December 15, 1874.

The committee report back a substitute for the bill (S. 2542), and recommend its passage.

Since the foregoing report was made, and since the passage through the Senate at the several times hereinbefore mentioned of the bill for the payment of the claims therein enumerated, and since the several favorable reports were made in the House of Representatives on said claims, other claims arising at the same time and place and under the same circumstances have come to the knowledge of your committee and are provided for herein.

The committee has again examined the evidence and the decisions of the Nevada State Board of Examiners in each case and finds the evidence sufficient to establish equity in all the claims passed upon by said board. But the committee has not the means of scrutinizing the evidence or obtaining further evidence as to the just amount due each claimant. It has, therefore, come to the conclusion that the whole matter should be examined in the Treasury Department, where the officers of the Government and the claimants will be fully represented.

The Court of Claims has no jurisdiction of these claims under existing law, but they fall within that class of claims which has been uniformly recognized and paid by the United States. In most of these cases the property taken, services rendered, money expended, and supplies furnished were in aid of the volunteer troops cooperating with United States forces in suppressing Indian hostilities in 1860, within the Territorial limits of the present State of Nevada.

The chief questions to be considered are—the value of the property taken, services rendered, supplies furnished, and the amount of money

advanced, which the Department can determine on the evidence, reports, and documents submitted to the State Board of Examiners, and such additional evidence as the officers of the Government may require, or which the claimants themselves may submit in support of their respective claims to said Department.

The committee, therefore, report back a substitute for the bill (S. 100) and recommend its passage.

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